IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 23649 of 1998

Between:

A.Nalini Kumari, W/o. Dr.Ramana Rao.
In-charge Principal, V.M.C.,

Mahila Vidhyapeeth Degree College for women,

Visakhapatnam. **..... PETITIONER**

AND

1 The Director of Collegeate Education,

Government of A.P.
Opp: Lata Talkies, Nampally,
Hyderabad.

2 V.M.C. Mahila Vidhyapeeth

Degree College for Women,
M.B.P.Colony, Rep.by it's Correspondent,

Visakhapatnam.

3 B.Sujanamati, Lecturer in Telugu,
V.M.C. Mahila Vidhyapeeth Degree College for Women,

M.B.P.Colony, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Certiorari by calling for the record relating to or connected with the proceedings No.2200/PC-III/98 dated 16/07/1998 of the first respondent herein and quash or set

aside the same holding it arbitrary, unjust, and unsustainable and direct the first respondent to accord all the consequential benefits such as pay fixation and payment of salary and allowances as Principal of the second respondent degree college as recommended in favour of the petitioners by the Selection Committee constituted for the said purpose.

Counsel for the Petitioner :Mr.NUTY RAM MOHAN RAO

Counsel for the Respondent No.3 : Mr.M.GUNNESWARA RAO

Counsel for the Respondent No.1 : G.P. for Higher Education

Counsel for the Respondent No.2 : Mr.P.V.Sanjay Kumar

The Court made the following :

ORDER:

This writ petition is filed challenging the proceedings of the first respondent in his file No.2200/PC-III/98 dated 16-07-98 and for consequential order directing the respondents to accord all benefits such as pay fixation, payment of salary and other allowances as Principal to the second respondent degree college.

According to the petitioner, she was appointed as a lecturer in Public Administration in the respondent degree college with effect from 19-09-1980 and her appointment as a lecturer in Public Administration was approved with effect from 02-11-1981. Right from her date of appointment as a lecturer, she was performing the duties as Vice-principal of the college. While so, on 20-10-1997 the director of collegiate education granted permission to the management to fill up the aided post of principal since a retired principal was handling the post, as per G.O.Ms.No. 127 Education Department dated 07-06-1993. In pursuance to the said permission granted by the Director of Collegiate Education, a regular selection committee was constituted for appointment of the principal of the college on 18-05-1998. In fact, the case of the petitioner along with others was considered and recommended for being appointed as a regular Principal of the college. Unfortunately, in the meanwhile, the third respondent claimed seniority over and above the petitioner and claimed that she was entitled for being considered for the post of Principal as per G.O.Ms.No.127 dated 07-06-1993. The said application of the third respondent was taken up by the Commissioner of Collegiate Education and though the impugned proceedings declared that the third respondent is senior to the petitioner, her appointment was approved with effect from

02-11-1981, the third respondent being elderly in age, she was given placement

above the petitioner in the seniority of the lecturers of the respondents degree college. Under those circumstances, the impugned proceedings were issued stating that the proposal to approve the selection and appointment of the petitioner as a Principal was not feasible for being complied with and it was directed that further necessary action to fill up the post of Principal by way of promotion as per seniority duly following usual procedure in vogue and submit the compliance.

Be that as it may, the third respondent retired from service on superannuation on 31-08-2001, however, the petitioner is being continued only as an In-charge Principal since 18-05-1998 till date. It is the case of the petitioner that considering the third respondent as a senior to her after more than 18 years of service and claiming for being promoted for the post of principal is arbitrary and illegal and therefore the impugned order is liable to be set aside.

A detailed counter affidavit has been filed by the respondents 1 and 2 and the third respondent filed his affidavit separately denying the allegations made by the petitioner. It is asserted in the counter filed on behalf of respondents 1 and 2 that as per records of the college, the petitioner's selection was made by the selection committee on 02-11-1981. On the same day three more lecturers viz., (1) Smt. A. Nalini Kumari,(2) Dr. S. Sujanamathi, (3) Dr.P.V.S.Prabhavathi, and (4) Smt.M. Gayathri were appointed excluding the petitioner. Among the above four lecturers, Dr.P.V.S.Prabhavathi has given in writing that she is not interested in promotion as a principal. The following are the date of births of these four lecturers appointed in the same selection.

S.No. Name Date of Birth

1. Dr. B. Sujanamathi 19-08-1943

2. Dr.P.V.S. Prabhavathi 12-07-1947

3. Smt.N.Gayathri Devi 06-02-1951

4. Smt.A. Nalini Kumari 28-11-1954

However, as per the rules recorded in G.O.Ms.No.353 GAD, dated 27-02-1962, the date of joining should not be taken for the purpose of fixing the *inter se* seniority when two persons in different subjects joined on the same day, but when more than one person joined on the same day in different subjects, age of the person

concerned may be taken into consideration, i.e. person having more age may be declared as senior to the person having less age. Therefore, Smt. B. Sujanamathi, whose date of birth is 19-08-1944 and who is elder in age was declared as senior to the petitioner for the purpose of seniority. Accordingly, orders have been issued to the correspondent of the college in director's proceedings No. 2200/PC-III/98 dated 16-07-98. Except this, there is no whisper as to the selections made for the post of lecturer on 18-05-1998 and recommendation of the petitioner to the post of Principal in the college. The said recommendation of the selection committee and the management of the petitioner for being appointed as a regular lecturer in the college were never challenged.

I have given my earnest consideration to the submissions made by the learned counsel on either side and the material made available on record.

The third respondent was declared as senior to the petitioner in the cadre of lecturers in the respondent degree college. That itself does not automatically confer entitlement on the third respondent for being appointed to the post of principal of the college. In fact the third respondent never made any challenge to the proceedings of the selection committee as recommended by the management for the approval of the competent authority. The respondents while considering the *inter se* seniority of the petitioner simply stated that in view of the fact that the third respondent is declared as senior to the petitioner the feasibility of granting approval is not possible. There is no dispute as to the fact that the third petitioner also participated in the selection process for the post of Principal on 18-05-1998 along with others. It is stated that the selection committee considered the names of three persons and the petitioner was selected and recommended for being appointed as Principal of the college may be the third respondent was entitled for being declared as senior to the petitioner but that does not mean that the third respondent is entitled for seniority over and above the petitioner itself was a factor to consider the rejection of the approval of the petitioner for being appointed to the post of Principal even after the third respondent participated in the selection proceedings along with the petitioner and others on 18-05-1998.

In view of the above circumstances, I am of the considered opinion that it was not open for the respondents to refuse the approval of the recommendation of the selection committee and the management for the post of regular principal as was

made on 18-05-1998 only on the ground that the third respondent found to be senior in the cadre of lecturer in the college over and above the petitioner. Therefore, the respondents are directed to reconsider the recommendations made by the selection committee constituted on 18-05-1998 against the petitioner for being appointed to the post of lecturer in the degree college and sought for approval and pass appropriate orders as per law within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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C.V.Ramulu, J.

Dated: 16-06-2005.

RNS
To

1 The Director of Collegiate Education,

Government of A.P.
Opp: Lata Talkies, Nampally,
Hyderabad.

2 The Correspondent,

V.M.C. Mahila Vidhyapeeth

Degree College for Women,
M.B.P.Colony, Visakhapatnam.

3 Two CD copies